

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHERINE LEIGH WHIPPLE
P.O. Box 1233
Roseville, CA 95678
Registered Nurse License No. 534258

Respondent.

Case No. 2008-39

OAH No. 2007100318

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 15, 2008.

It is so ORDERED February 15, 2008.

Lathene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
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**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Katherine Leigh Whipple (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about July 24, 1997, the Board of Registered Nursing issued Registered Nurse License No. 534258 to Katherine Leigh Whipple (Respondent). The was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-39 and expired on August 31, 2007.

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1 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
2 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
3 and surrender, without notice to or participation by Respondent. By signing the stipulation,
4 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
5 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
6 this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall
7 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
8 between the parties, and the Board shall not be disqualified from further action by having
9 considered this matter.

10 11. The parties understand and agree that facsimile copies of this Stipulated
11 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
12 and effect as the originals.

13 12. In consideration of the foregoing admissions and stipulations, the parties
14 agree that the (Board) may, without further notice or formal proceeding, issue and enter the
15 following Order:

16 **ORDER**

17 IT IS HEREBY ORDERED that Registered Nurse License No. 534258, issued to
18 Respondent Katherine Leigh Whipple is surrendered and accepted by the Board of Registered
19 Nursing.

20 13. The surrender of Respondent's Registered Nurse License and the
21 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
22 against Respondent. This stipulation constitutes a record of the discipline and shall become a
23 part of Respondent's license history with the Board.

24 14. Respondent shall lose all rights and privileges as a registered nurse in
25 California as of the effective date of the Board's Decision and Order.

26 15. Respondent shall cause to be delivered to the Board both her wall and
27 pocket license certificate on or before the effective date of the Decision and Order.

28 16. Respondent fully understands and agrees that if she ever files an

1 application for licensure or a petition for reinstatement in the State of California, the Board shall
2 treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations
3 and procedures for reinstatement of a revoked license in effect at the time the petition is filed,
4 and all of the charges and allegations contained in Accusation No. 2008-39 shall be deemed to be
5 true, correct and admitted by Respondent when the Board determines whether to grant or deny
6 the petition.

7 17. Upon reinstatement of the license, Respondent shall pay to the Board costs
8 associated with its investigation and enforcement pursuant to Business and Professions Code
9 section 125.3 in the amount of Two Thousand Nine Hundred Twenty-Eight Dollars and No Cents
10 (\$2,928.00). Respondent shall be permitted to pay these costs in a payment plan approved by the
11 Board.

12 18. Should Respondent ever apply or reapply for a new license or certification,
13 or petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation, No. 2008-39 shall be
15 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
16 Issues or any other proceeding seeking to deny or restrict licensure.

17 19. Respondent shall not apply for licensure or petition for reinstatement for
18 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

19 ACCEPTANCE

20 I have carefully read the Stipulated Surrender of License and Order. I understand
21 the stipulation and the effect it will have on my Registered Nurse License. I enter into this
22 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
23 be bound by the Decision and Order of the Board of Registered Nursing.

24 DATED: 11/14/2007.


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27 Katherine Leigh Whipple (Respondent)
28 Respondent

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DATED:

11/19/2007

ARTHUR D. TAGGART
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2006102920
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Exhibit A
Accusation No. 2008-39

1 EDMUND G. BROWN, Attorney General
of the State of California
2 ARTHUR D. TAGGART
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3 ELENA L. ALMANZO, State Bar No. 131058
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BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-39

13 **KATHERINE LEIGH WHIPPLE**

14 ~~425 Kirby Way, #113 PO Box 1233~~
~~Roseville, California 95678~~ *Roseville, CA 95678*

ACCUSATION

15 Registered Nurse License No. 534258

16 Respondent.
17

18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 **License History**

24 2. On or about July 24, 1997, the Board issued Registered Nurse License
25 Number 534258 ("license") to Katherine Leigh Whipple ("Respondent"). The license will expire
26 on August 31, 2007, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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1 (b) Use any controlled substance as defined in Division 10
2 (commencing with Section 11000) of the Health and Safety Code, or any
3 dangerous drug or dangerous device as defined in Section 4022, or
4 alcoholic beverages, to an extent or in a manner dangerous or injurious to
himself or herself, any other person, or the public or the extent that such
use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

5 (c) Be convicted of a criminal offense involving the
6 prescription, consumption, or self-administration of any of the substances
7 described in subdivisions (a) and (b) of this section, or the possession of,
8 or falsification of a record pertaining to, the substances described in
subdivision (a) of this section, in which event the record of the conviction
is conclusive evidence thereof.

9 8. Code section 2770.11 states:

10 (a) Each registered nurse who requests participation in
11 a diversion program shall agree to cooperate with the rehabilitation
12 program designed by a committee. Any failure to comply with the
13 provisions of a rehabilitation program may result in termination of
14 the registered nurse's participating in the program. The name and
license number of a registered nurse who is terminated for any
reason, other than successful completion, shall be reported to the
board's enforcement program.

15 (b) If a committee determines that a registered nurse,
16 who is denied admission into the program or terminated from the
17 program, presents a threat to the public or his or her own health
18 and safety, the committee shall report the name and license
number, along with a copy of all diversion records for that
registered nurse, to the board's enforcement program. The board
may use any of the records it receives under this subdivision in any
disciplinary proceeding.

19 COST RECOVERY

20 9. Code section 125.3 provides, in pertinent part, that the Board may request
21 the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 10. DRUGS

25 "Ambien" is a brand of zolpidem tartrate and a Schedule IV controlled substance
26 as designated by Health and Safety Code section 11057.

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1 "Vicodin," a compound consisting of 5 mg. Hydrocodone Bitartrate, also
2 known as Dihydrocodeinone, and 500 mg Acetaminophen per tablet, is a Schedule III controlled
3 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

4 "Methamphetamine" is a Schedule II controlled substance as designated by Health
5 and Safety Code section 11055(d)(2).

6 **DIVERSION PROGRAM**

7 11. On or about May 20, 2004, Respondent became a participant in the
8 Board's Diversion Program after admitting to diversion of a controlled substance while employed
9 as a nurse at Sutter Medical Hospital Center in Sacramento, California. On or about May 25,
10 2006, following multiple relapses and her failure to comply with the diversion program,
11 Respondent was terminated from the program as a public risk.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Self-Administered Controlled Substances)**

14 12. Respondent is subject to disciplinary action under Code section 2761,
15 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
16 subdivision (a), in that while licensed as a registered nurse in California, Respondent committed
17 the following acts:

18 a. On or about July 26, 2004, Respondent self-administered Ambien, a
19 Schedule IV controlled substance, without lawful authority therefor.

20 b. On or about November 9, 2004, Respondent self-administered Vicodin, a
21 Schedule III controlled substance, without lawful authority therefor.

22 c. On or about January 27, 2007, respondent admitted that she self-
23 administered Methamphetamine, a Schedule II controlled substance, without lawful authority
24 therefor.

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1 subdivision (b), in that Respondent used alcoholic beverages and/or drugs to an extent or in a
2 manner dangerous or injurious to herself or others, as set forth in paragraph 13, above.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Conviction of Crimes Involving the Consumption of Alcohol and/or Drugs)**

5 15. Respondent is subject to disciplinary action under Code section 2761,
6 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
7 subdivision (c), in that Respondent was convicted of crimes involving the consumption of an
8 alcoholic beverage and/or drugs, as set forth in paragraph 13, above.

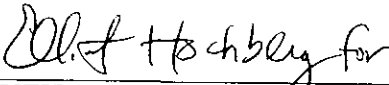
9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 534258 issued
13 to Katherine Leigh Whipple;
- 14 2. Ordering Katherine Leigh Whipple to pay the Board the reasonable costs
15 of the investigation and enforcement of this case pursuant to Code section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17

18 DATED: 8/3/07

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20 
21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant